

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

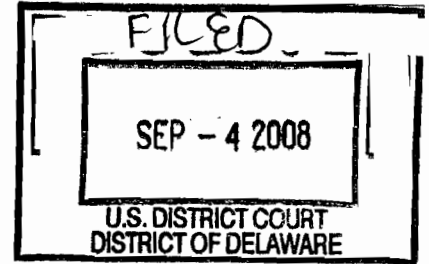
THOMAS R. MILLER
Plaintiff

#

1:08-cv-00137-GMS

v.

STATE OF DELAWARE



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LETTER OF NOTICE

I Thomas R. Miller would like to bring to the attention of the Court. Back on April 24, 1996 I submitted my first petition for a writ of Habeas Corpus #2254 my partner assigned Judge was either Roderick McKelvey or Judge Farnan. The memorandum of law was considered a mixed petition. One of the Judges reviewed the grounds, he sent the petition back to me to straightened the arguments for a clear and precise understanding, as well as to exhaust my state remedies. I was granted a writ of habeas corpus. I then amended my petition on the grounds for relief and this is when your Honor became my assigned Judge. At this given time that petition amended is the same petition for a writ of habeas corpus that was filed on April 24, 1996 it should be counted as one petition. Your Honor Sir, when you made your decision back in February 01 you denied it with prejudice as if it was a second federal petition which becomes final and permanent dismissal, the petition should have been accepted as the first petition because one of the

other Judges dismissed himself from the case, and Filing and handed over to you, your honor as a new filed open case, and when you were assigned to my case, it seemed as if it was another Filing of petition for a writ of habeas corpus, but it was not, it was the same filing of April 24, 1996. I should be accounted as one habeas filing back then, This present habeas petition would be counted as my second or successive habeas corpus. Twice before the filings were civil right¹⁹⁸³ in 1993 and 1994. and April 24, 1996 mixed petition Exhaustion requirement. The present 2 grounds that's before you are not the same arguments of 1996, these are different grounds (new) with merit, and shows my innocence to the charges the state placed on me. constitutional violations. Under the over view of habeas corpus C. Innocent Model. This model views habeas corpus as a remedy only for those who can make a colorable showing of innocence. (My forensic report FBI). Under this model, relief will only be granted where it appears a constitutional violation most likely resulted in the conviction of an innocent person. This means that the court does not focus on whether error contributed to the verdict, but whether the person was probably innocent. As a result, under this theory of review a number of significant errors will not entitle a defendant to relief. The defendant must go further and establish he is (2) probably innocent.

Your Honor Sir, at the time I had to exhaust state remedies, this was an statutory tolling. For instance if the petitioner decides to return to state court to complete exhaustion, then the federal petition that was filed will be dismissed without prejudice. A dismissal without prejudice means that the new federal petition can be filed after exhaustion is completed, but that does not mean that the time spent in Federal Court before the case was dismissed will be granted statutory tolling. Understood, but the new federal petition will still count for the first petition that was filed on April 24, 1996 and not an second successive petition. This petition that's pending before you will be my second.

Your honor Sir, I send this letter of notice in truth, and honesty from my past dealings in the United States District Court. This letter is sent in respect.

Thank You,
Thomas R. Miller

Date: September 2, 2008

I/M Thomas R. Miller
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